

EXHIBIT 1

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

vs.

Case No.

UBER TECHNOLOGIES, INC.; 17-cv-00939-WHA

OTTO MOTTO, LLC; OTTO

TRUCKING LLC,

Defendants.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF DAVID DRUMMOND

Palo Alto, California

Monday, August 21, 2017

Volume I

REPORTED BY:

REBECCA L. ROMANO, RPR, CSR No. 12546

JOB NO. 2677782

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1 Q. (By Mr. Gonzalez) And that is something 01:06:55
2 that you, as chief legal officer, would discuss
3 with them to ensure that they know that they have a
4 duty of loyalty?

5 A. It might not necessarily be me, no. 01:07:01

6 Q. Do you deputize somebody to do that?

7 A. We have lawyers who manage the board
8 affairs and corporate lawyers. So it could --
9 could be one of them or -- it could be one of them.

10 Q. But somebody from Google or Alphabet's 01:07:18
11 legal department would inform the board members
12 that they have a duty of loyalty to the company?

13 A. Generally speaking, I think that's true.
14 I can't give you any examples or how that might
15 have happened with any -- any particular board 01:07:34
16 member.

17 Q. You sat on Uber's board of directors for
18 approximately three years; is that right?

19 A. I don't remember the exact dates, but
20 that sounds roughly correct. 01:07:44

21 Q. Do you remember that you began serving on
22 Uber's board in approximately August of 2013?

23 A. Again, that sounds roughly correct.

24 Q. How often would you attend board meetings
25 at Uber? 01:07:57

1 A. Well, I attended the board meetings when 01:08:01
2 they were called.

3 Q. Do you remember approximately how many
4 you attended?

5 A. I don't recall exactly how many. 01:08:06

6 Q. Or how many board meetings there were per
7 year while you served?

8 A. I don't recall specifically. I believe
9 they were quarterly or that -- that -- or
10 thereabouts, but I don't know. I don't remember 01:08:18
11 the exact cadence of the board meetings.

12 Q. And would you agree that while you served
13 on Uber's board of directors, you owed a duty of
14 loyalty to Uber?

15 A. Yes, that's right. 01:08:29

16 Q. When did Google first begin discussions
17 about the possibility of entering the TaaS market?

18 A. I don't know when Google began any
19 discussions. And by that I -- I assume you mean
20 internal discussions about TaaS. We had been 01:08:47
21 working on self-driving technology in cars for
22 quite a number of years. And TaaS, as well as
23 other potential business models, were always, I
24 think, understood to be alternatives for that kind
25 of technology. 01:09:07

1 A. I understand that Waymo is conducting 01:10:20
2 tests in the Phoenix -- the Phoenix area, yes.
3 Q. And when you say --
4 (Brief interruption.)
5 Q. (By Mr. Gonzalez) Sir, when you say that 01:10:37
6 Waymo's conducting tests, by "tests," do you mean
7 that they are taking passengers for free from
8 pickup point to dropoff point?
9 A. Yes, they are -- my understanding is that
10 they are taking passengers from pickup to -- to 01:10:52
11 destinations.
12 Q. And -- and wouldn't you agree that that
13 act of taking a passenger from pickup to
14 destination is in direct competition with Uber in
15 Phoenix? 01:11:09
16 A. I -- I don't know if that's true.
17 Q. Why do you say that?
18 A. It -- it -- we're not charging for the
19 service at the moment, so I'm not sure it's in
20 direct competition, among other things. 01:11:22
21 Q. Do you know how many rides, if you will,
22 you're giving for free right now in Phoenix, like
23 is there a certain amount per day or per week?
24 A. I don't know.
25 Q. Do you recall that the issue of Google 01:11:38

1 A. I remember him expressing concerns after 01:15:53
2 that.

3 Q. And what, generally, was your response?

4 A. Generally, my response was similar, that 01:16:01
5 we were -- we hadn't launched anything. We were
6 still deciding what we were going to do. And in
7 the event we did, any competition was a long ways
8 off, and we had a good partnership, we should
9 continue it.

10 Q. What was the good partnership that you 01:16:17
11 had at that time?

12 A. Well, we were investors in the company
13 and -- through Google Ventures, I should say, which
14 is a different entity than Google, although
15 owned -- controlled by Google. We had a 01:16:30
16 partnership around maps. And those were the main
17 partnerships, I believe.

18 Q. Let me show a document that we've marked
19 as Exhibit 1770.

20 01:16:47
21 (Exhibit 1770 was marked for
22 identification by the court reporter and is
 attached hereto.)

23 Q. (By Mr. Gonzalez) Is this an email
24 exchange between you and Mr. Kalanick in January
25 of 2015? 01:17:04

1 A. That's what it appears to be. 01:17:10

2 Q. You'll see that the email string starts

3 at the bottom with Mr. Kalanick writing to you

4 about the Detroit auto show. And he says "Urmson

5 is openly discussing rolling out an Autonomous 01:17:21

6 Vehicle ridesharing service. I'm thinking it's

7 time to have a chat with Larry directly."

8 Do you see that?

9 A. Yes, I do.

10 Q. And then you respond on the 18th. He 01:17:36

11 writes back to you. And then you write to him on

12 the 22nd, basically, saying -- agreeing with him

13 that you need to have a talk; is that right?

14 A. Well, to the extent you're referring

15 to -- yes, I think it's time for a chat, too. 01:17:56

16 That's what the email says.

17 Q. Let me show you 1771.

18 (Exhibit 1771 was marked for

19 identification by the court reporter and is

20 attached hereto.) 01:18:05

21 Q. (By Mr. Gonzalez) For the record, 1771

22 is another email exchange between you and

23 Mr. Kalanick; is that right?

24 A. Yes, that's what it appears to be.

25 Q. And Mr. Kalanick is forwarding to you, on 01:18:29

1 March 7, 2015, an email that he received from 01:18:32
2 someone saying "Heard from a reliable source that
3 Google will be starting a self-driving service."
4 Is that right?
5 A. That's what the email seems to say. 01:18:48
6 Q. And he is, once again, requesting a
7 meeting with Larry to talk about this issue which
8 is causing him additional concern.
9 Would that be fair?
10 A. That's what he seems to be asking about. 01:18:59
11 Q. And then you write back and say "I
12 continue to believe that the value of a partnership
13 now far outweighs concerns about an uncertain
14 future."
15 Do you see that? 01:19:12
16 A. Yes, I do.
17 Q. And you also said to him, "I will speak
18 to Larry again to reiterate the importance of a
19 meeting with you very soon."
20 So you had already spoken to Mr. Page 01:19:22
21 about the concerns that were being expressed by
22 Mr. Kalanick during this time period; is that
23 right?
24 A. Well, I don't -- I don't recall when and
25 whether I spoke to Larry during this time period. 01:19:32

1 I -- I will agree with you that the email says 01:19:36
2 that -- that I -- I -- I said that in the meeting.
3 Q. And so the email at least suggests that
4 you had already had at least one conversation with
5 Mr. Page about this. 01:19:47
6 Would that be fair?
7 A. Well, again, the email says that -- that
8 I wrote to Travis saying that I'll speak to Larry
9 again, yeah.
10 Q. Do you recall speaking to Mr. Page about 01:19:58
11 the concerns that were being expressed by
12 Mr. Kalanick?
13 A. I don't -- I don't recall speaking to him
14 in any particular time, certainly during this
15 period. But I recall having a -- a conversation 01:20:08
16 with him about it.
17 Q. And what was Mr. Page's message that he
18 asked you to deliver back to Mr. Kalanick?
19 A. I can't recall that he gave me any
20 message to deliver back. 01:20:22
21 Q. What was his response to the concerns
22 being expressed by Mr. Kalanick?
23 A. I think Larry's general response was that
24 we were -- if there was going to be competition, it
25 would be a long ways off and that we should 01:20:39

1 continue to work on our partnership. 01:20:42

2 Q. And what do you mean by "a long ways
3 off"?

4 A. Well, I think it was acknowledged at the
5 time that self-driving cars weren't right around 01:20:53
6 the corner. So that it was -- these were -- this
7 is a technology that was still in development.

8 Q. Do you recall having a lunch meeting with
9 Mr. Page and Mr. Kalanick shortly after the date of
10 this email to discuss the concerns being expressed? 01:21:11

11 A. I remember a meeting with Larry and
12 Travis. I don't recall when it took place.

13 Q. (By Mr. Gonzalez) Let me show you
14 Exhibit 417.

15 This is a meeting invite for a lunch on 01:21:38
16 March 10, 2015, three days after the email exchange
17 I just showed you.

18 Does that sound about right with respect
19 to the date that you would have had this lunch that
20 you're referring to? 01:21:49

21 A. I have no reason to -- to doubt it.

22 Q. It references the location,
23 1900 Charleston Road, Mountain View.

24 Is that your headquarters?

25 A. That's on the Google campus, yes. 01:22:00

1 Q. And -- 01:22:03
2 A. And that's where I recall the meeting
3 take place.
4 Q. Right.
5 Now -- now, I don't want to get lawyer 01:22:07
6 technical, but you're saying meeting. This is
7 saying lunch.
8 Doesn't really matter to me, but was it a
9 lunch meeting or just a regular meeting?
10 A. I don't remember if there was food 01:22:14
11 present.
12 Q. All right. And --
13 A. At -- at Google -- at Google, there's
14 always food present.
15 Q. Yeah. Fair enough. 01:22:18
16 So other than you and Mr. Page and
17 Mr. Kalanick, do you recall if anyone else
18 attended?
19 This indicates an Emil Michael was
20 invited. 01:22:26
21 A. I -- I recall Emil being there. I'm
22 fairly certain he was there.
23 Q. Other than the four of you, anybody else
24 attend?
25 A. I don't recall anyone else attending, no. 01:22:34

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1 Q. What did you understand to be the point 01:22:36
2 or the purpose of that meeting?

3 A. I think Travis had some concerns about
4 the possibility of our being involved in ride
5 sharing through our self-driving project, and we 01:22:54
6 wanted to talk generally about the partnership.

7 Q. And what was Mr. Page's response to the
8 concerns as expressed at that meeting?

9 A. Well, as I recall, he -- he acknowledged
10 it. But also he responded that -- you know, that 01:23:07
11 we had been working on self-driving cars for quite
12 a long time. And then, in fact, Uber had begun to
13 very aggressively get into the self-driving car
14 market technology to compete with -- with Google.
15 And so he was a little bit surprised that there 01:23:33
16 would be this much concern being expressed.

17 Q. What did he say about whether or not
18 Google was going to enter the TaaS market?

19 A. I don't -- I don't recall what he said
20 specifically about that. I think it -- I don't 01:23:50
21 recall specifically what he said.

22 Q. Do you recall generally?

23 A. Well, generally, I think his message was
24 as -- as -- was that it was one of the
25 possibilities that we were considering, in order to 01:24:03

1 monetize, if you will, the self-driving car 01:24:13
2 opportunity.

3 Q. So it's your recollection of that lunch
4 meeting that at that lunch meeting Mr. Page said to
5 Mr. Kalanick that Google was going to be entering 01:24:21
6 into the TaaS market?

7 A. No, that's not what -- I don't recall
8 that.

9 Q. Only that it was one of many
10 possibilities? 01:24:33

11 A. Yes.

12 Q. What was Mr. Kalanick's response to the
13 statement by Mr. Page that TaaS was one of the
14 possibilities that you were considering?

15 A. Well, I -- I don't recall what his 01:24:48
16 response was.

17 Q. Do you recall what Mr. Emil Michael's
18 response was?

19 A. No, I don't remember what his response
20 was. 01:24:56

21 Q. What was the temperature of this meeting?
22 Was it mild? Calm? Or did voices get raised?

23 A. I -- I recall it as being respectful and
24 cordial, but not open. And, you know, with points
25 of view being expressed. 01:25:20

1 board? 01:36:58

2 A. Yes, it appears to be.

3 Q. So does this refresh your recollection

4 that you resigned from the board in a letter dated

5 August 22 that you emailed to Mr. Kalanick on 01:37:15

6 August 23 of 2016?

7 A. No. My -- my recollection is that I

8 resigned from the board in August of 2016.

9 Q. All right. Fair enough.

10 And why did you resign? 01:37:30

11 A. I resigned from the -- the board because

12 we -- we had, basically, a conflict -- a business

13 conflict because Uber was very aggressively -- had

14 very aggressively entered the self-driving

15 technology space. We also, as I've said, were 01:37:51

16 contemplating ride sharing as part of our

17 self-driving efforts. And so we -- that conflict

18 had caused Uber to decide to sort of recuse me from

19 the board meetings for some period before this

20 time. 01:38:15

21 And then when they announced the

22 acquisition of Otto, it -- because Otto was a

23 company formed by a former Google employee,

24 Anthony Levandowski, who had left the company a few

25 months back and created this start-up, and he -- we 01:38:32

1 had some concerns about Anthony's behavior as he 01:38:38
2 left and that -- at that point, we decided -- I
3 decided that it made more sense for me not to be on
4 the board of the company anymore.

5 Q. Wasn't Uber already in the 01:38:51
6 self-driving space at the time that Google made its
7 investment?

8 A. No, it was not.

9 Q. When did Uber enter the
10 self-driving space, as you recall it? 01:39:01

11 A. I don't recall the exact date.

12 Q. Were you a member of the board?

13 A. I believe so.

14 Q. And how did you find out about Uber's
15 entry into the self-driving space? 01:39:11

16 A. I don't recall exactly how I found out
17 the first time.

18 Q. What is it that is your first
19 recollection of having learned that?

20 A. I -- I just don't remember how I learned 01:39:24
21 it. It's possible Travis told me, but I don't -- I
22 don't recall exactly.

23 Q. Did you express any concern to
24 Mr. Kalanick, or anybody else at Uber, when you
25 learned that Uber was entering the self-driving 01:39:35